IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: WANG et al.

Title: REDUCING EFFECTS CAUSED BY
               TRANSMISSION CHANNEL ERRORS
               DURING A STREAMING SESSION

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

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Commissioner for Patents
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Sir:

In accordance with the New **Pre-Appeal Brief Conference Pilot Program**, announced July 11, 2005, this Pre-Appeal Brief Request is being filed together with a Notice of Appeal and with the required fee.

REMARKS

Applicants respectfully request reconsideration of the present application in view of the reasons that follow. Claims 1, 3, 5-7, 9-11, 15-20, 24-28, and 30-32 are now pending in this application.

I.   Rejection of Claims 1, 3, 5, 6, 9-11, 17, 18, 20, and 24-31 Under 35 U.S.C. § 102(e)

In Section 1 of the Office Action, Claims 1, 3, 5, 6, 9-11, 17, 18, 20, and 24-31 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Publication No. 2002/0141740 to Matsui (Matsui). Applicants respectfully traverse the rejection because Matsui fails to teach, suggest, or disclose all of the elements of at least independent Claims 1, 18, 20, and 24-26.

A.   Claims 1, 18, 20, and 24-26

Independent Claim 1, with emphasis added through underlining, recites in part:

> sending a response to the received first request from the streaming
> server to the streaming client, the response including a plurality of
> error resilience levels supportable by the streaming server in sending
> the media to the streaming client, <u>wherein the plurality of error
> resilience levels includes a default error resilience level and an
> alternative error resilience level</u>;

Independent Claim 18, with emphasis added through underlining, recites in part:

> receiving means for receiving streaming media sent from a streaming
> server to the client device via a transmission channel and for
> receiving a plurality of error resilience levels supportable by the
> streaming server in streaming the media to the client device, <u>wherein
> the plurality of error resilience levels includes a default error
> resilience level and an alternative error resilience level</u>;

Independent Claim 20, with emphasis added through underlining, recites in part:

> receiving means for receiving a first request for media from a
> streaming client and for receiving a second request from the
> streaming client, the second request including an error resilience
> level selected from a plurality of error resilience levels, <u>wherein the
> plurality of error resilience levels includes a default error resilience
> level and an alternative error resilience level</u>

Independent Claim 24, with emphasis added through underlining, recites in part:

> send a response to a first device requesting media, the response
> including a plurality of error resilience levels supportable when
> sending the media to the first device, <u>wherein the plurality of error
> resilience levels includes a default error resilience level and an
> alternative error resilience level</u>;

Independent Claim 25, with emphasis added through underlining, recites in part:

> receive a response from the streaming server, the response including
> a plurality of error resilience levels supportable by the streaming
> server when sending the media, <u>wherein the plurality of error
> resilience levels includes a default error resilience level and an
> alternative error resilience level</u>;

Independent Claim 26, with emphasis added through underlining, recites in part:

> receiving a response from the streaming server at the streaming
> client, the response including a plurality of error resilience levels
> supportable by the streaming server when sending the media,

<u>wherein the plurality of error resilience levels includes a default</u>
<u>error resilience level and an alternative error resilience level</u>

On page 10 of the Final Office Action, the Examiner states that "Matsui discloses the plurality of error resilience levels includes a default error resilience level and an alternative error resilience level (... [0248])." Applicants respectfully disagree. At paragraphs [0247]-[0248] cited by the Examiner, with emphasis added through underlining, Matsui states:

> [0247] While in this second embodiment the user sets the anti-error intensity of the video data to be received first among the plural video data corresponding to the same video sequence and having different anti-error intensities, <u>the anti-error intensity of the video data to be received first may be a default value that is unique to the receiving terminal</u>.

> [0248] In this case, <u>the receiving terminal **requests** a video stream corresponding to a video element suited to the default value of the anti-error intensity, among the plural video elements 711-714 described in the SMIL file FSD2, and receives this video stream</u>. Thereafter, in the receiving terminal, the video stream being received is switched to a video stream having an appropriate anti-error intensity according to the incidence of error during reception of the video stream.

Thus, the default value is unique to and known only at the receiving terminal. A video stream is requested by the receiving terminal based on the default value that is unique to and known only at the receiving terminal. Therefore, Matsui fails to teach, suggest, or disclose "<u>sending a response to the received first request from the streaming server to the streaming client</u>, the response including a plurality of error resilience levels supportable by the streaming server in sending the media to the streaming client, <u>wherein the plurality of error resilience levels includes a default error resilience level and an alternative error resilience level</u>" (with emphasis added through underlining) as recited in Claim 1, and similarly recited in Claims 18, 20, and 24-26. As taught by Matsui, the streaming client (receiving terminal) requests a stream based on a default value known at the streaming client, but <u>is not provided a default error resilience level by the streaming server</u>.

Matsui consistently and repeatedly describes the setting of the default value at the receiving terminal. (*See* paras. [0284], [0297], [0298], [0303], [0306], [0312], [0314]). For example, Matsui states that the "audio or text data suited to the anti-error intensity of data to be received, <u>which is set by the user in the receiving terminal or set as a default value of the receiving terminal</u>, is selected from among plural pieces of audio data or text data." (Para. [0284], with emphasis added through underlining). Additionally, Matsui states that the "the transmission error is equal to or larger than the

default value (predetermined value) set in the receiving terminal." (Para. [0314], with emphasis added through underlining).

None of the video elements 711-714 is identified as having a default error resilience level in the SMIL file. (*See* Fig. 5(a)). Instead, the receiving terminal request the video element suited to the default value known only at the receiving terminal. Therefore, Matsui fails to teach, suggest, or disclose "sending a response to the received first request from the streaming server to the streaming client, the response including a plurality of error resilience levels supportable by the streaming server in sending the media to the streaming client, wherein the plurality of error resilience levels includes a default error resilience level and an alternative error resilience level" (with emphasis added through underlining) as recited in Claim 1, and similarly recited in Claims 18, 20, and 24-26.

B. *Claims 10 and 28*

Claim 10 recites:

> The method of claim 9, wherein said error resilience value is stored in a file format in which said media is stored.

Claim 28 recites:

> The method of claim 1, further comprising identifying a media content error resilience level from the media wherein the plurality of error resilience levels includes the identified media content error resilience level.

Matsui states:

> The server 100a comprises a data storage unit 120 for holding plural video streams which are obtained by coding digital video signals corresponding to the same video sequence under different coding conditions, and holding SMIL data in which the attributes of the respective video streams are described.

(Para. [0088], with emphasis added through underlining). Matsui only describes inclusion of error resilience levels in a SMIL file separate from the media files. (*See* Figs. 1a and 21a). Relative to the SMIL file format, Matsui states that "[c]haracter strings such as <smil>, </smil>, <body>, </body>, <switch>, </switch>, and <video>, which are described at the beginnings of the respective rows of the SMIL file FSD1, are called 'elements', and each element declares the contents of description which follows the element." (Para. [0092)]. The video streams are not described as being stored in a text file format as is the SMIL file. Thus, Matsui also fails to teach, suggest, or disclose "wherein said error resilience value is stored in a file format in which said media is stored" as recited in Claim

10. Matsui similarly fails to teach, suggest, or disclose "identifying a media content error resilience level from the media" as recited in Claim 28.

Thus, for at least the reasons described above, Matsui fails to teach, suggest, or describe all of the elements of at least Claims 1, 10, 18, 20, 24-26, and 28. Matsui fails to consider provision of a plurality of error resilience levels supportable by the streaming server to the streaming client which provides a default value to the streaming client. Matsui further fails to consider provision of an error resilience level in a media file format. An anticipation rejection cannot properly be maintained where the reference used in the rejection does not disclose all of the recited claim elements. The remaining claims depend from one of Claims 1 or 18. Therefore, Applicants respectfully request withdrawal of the rejection of Claims 1, 3, 5-7, 9-11, 15-20, 24-28, and 30-32.
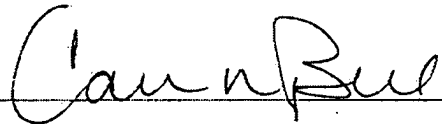
In view of the foregoing, it is respectfully submitted that the application is in condition for allowance.

Respectfully submitted,

Date January 4, 2008   By _____

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